



Illinois Environmental Protection Agency

TELEPHONE: 217/782-5544

February 10, 1978

EPA Region 5 Records Ctr.



303268

Mr. George Wolff, Chief
Environmental Control Division
188 West Randolph, Suite 2315
Chicago, Illinois 60601

Re: CITY OF PEKIN
PCB# 75-156
Third Dist. App. Ct. #76-93

Dear George:

On February 13, 1976, the Pollution Control Board adopted an Opinion and Order in the above-captioned case. This Order called for closure of the site and required Respondent to submit a closure plan.

On April 6, 1977, the Appellate Court for the Third District affirmed the Board Order as it related to closing the site while reversing the requirement that the City submit the closure plan. The Court noted that if the City did not act properly then an enforcement action might be brought to close the site according to the Rules and Regulations.

Enclosed you will find materials indicating that the City of Pekin has failed to properly close the site following the Board Order. This matter is referred to you so that the appropriate action to enforce the Board Order might be taken in the Circuit Court of Tazewell County.

Please provide me with twenty-four (24) hours notice prior to filing the complaint. In addition, provide Thomas Chiola and me with copies of the Complaint as filed, including the docket number assigned.

Yours truly,

Delbert D. Haschemeyer
Manager, Enforcement Programs

Thomas R. Chiola

Assigned Tech. Advisor

2200 Churchill Road, Springfield, Illinois 62706



Illinois Environmental Protection Agency

MEMORANDUM

DATE: October 28, 1977
TO: Division File
FROM: John Taylor
SUBJECT: Tazewell County - LPC 17980101
Pekin/Municipal

I received a telephone call from a Frank Rosenberg, the owner of the Pekin/Municipal site. He was inquiring as to whether or not we had inspected the site and also wanted to know what action we were going to take against the city of Pekin. He had talked to Gil Stauffer earlier this month and was curious as to what had been done. I checked the file and determined that nothing had been done in regard to this site. Rosenberg explained that he was suing the city of Pekin and that there was to be a pretrial hearing during the second week of November. His attorneys need some indication as to the Agency's plans regarding enforcement action against the city of Pekin. I told him that if the City didn't show clear and convincing evidence that they were covering the site, a closed, not covered case would likely be referred to the Attorney General's Office by Christmas. I promised him that we would inspect the site next week (by November 4, 1977) and would send him a carbon copy of any correspondence with the city of Pekin. Incidentally, his telephone number is 1-309/346-3168 and correspondence should be sent to Frank Rosenberg, Inc., Post Office Box 519, Pekin, Illinois, 61554.

JT:dw/1354/9
November 1, 1977

cc: Central Region
Land FOS Manager

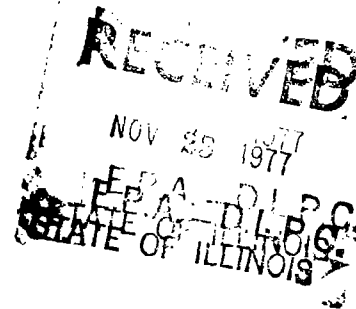


DATE: November 9, 1977

TO: File

FROM: Gilbert E. Stauffer - Central Region

SUBJECT: TAZEWELL COUNTY/L.P.C. #17980101
Pekin/Municipal #1
Tech. Memo - P.C.B. Order Followup



GENERAL BACKGROUND

This general refuse site is located in the SE 1/4 of Sec. 9, T. 24 N, R. 5 W. of the 3rd P.M., Tazewell County, Illinois. This is located approximately 3/4 mile south of Pekin, Illinois, adjacent to Ill. Route 29.

This site is approximately 25 acres in size. Approximately 8-10 acres have been filled, part of the site to a depth of 40 plus feet. An adjoining piece of property, located south of this site, has also been filled.

According to the Regional files, this site was in existence prior to December 14, 1966. The property south of the present 25 acres was filled in the years prior to 1966.

On December 20, 1966, this site was registered with the Illinois Department of Public Health. The City of Pekin, Sanitation Department, is listed as the registrant and as owner of the property. The City does not own the property.

The property is owned by Frank Rosenberg, Inc., Pekin, Illinois. A Mr. C.V. Fringas, Attorney, recently deceased, had paid taxes on this property, apparently for Frank Rosenberg, Inc.

This property (25 acres) had been leased to the City of Pekin for \$1.00/yr. according to Bernard Rosenberg.

This site was the subject of a P.C.B. Order #75-156, dated February 13, 1976. The Order reads, in part:

1. Respondent operated a solid waste management site without the required permits from the Environmental Protection Agency . . .
2. Respondent shall cease and desist all solid waste disposal activities . . ., and shall close said site in conformity with the Rules and Regulations of this Board, pursuant to a plan of closure prepared by Respondent and acceptable to the Environmental Protection Agency . . .

3. Respondent shall, if determined by the Agency, provide and maintain leachate monitoring sites; . . . No penalty was imposed.

On March 16, 1976, a Motion to Stay was filed with the Illinois Appellate Court For The Third Appellate District, Ottawa, Illinois. An opinion filed April 6, 1977 in the Third District No. 76-93 affirmed in part and reversed in part.

1. . . . finding that there was danger of leachate pollution at site of landfill held justified . . .
2. . . . direction to close landfill site which was being operated without a permit held not economically unreasonable . . .
3. . . . denied of amendment to complaint at close of evidence held not to have prejudiced rights of parties - pollution . . .
4. . . . landowner has burden of preparing closure plan for landfill site . . .
5. . . . evidence regarding violation of cover requirements at landfill cannot be considered by reviewing court as complaint did not charge City with such violation . . .
6. . . . P.C.B. cannot base decision on matters not in evidence.

There has been a Circuit Court decision, Frank Rosenberg, Inc. vs. United Redi-Mix for unauthorized dumping of concrete washout at this site through trespass.

There is a pending suit in Circuit Court, Frank Rosenberg, Inc. vs. the City of Pekin concerning violation of the lease, to be heard in November, 1977.

TECHNICAL BACKGROUND

This site received general refuse from the City of Pekin and surrounding areas, including Green Valley, and industry in the Pekin area. Liquid wastes have been accepted, May 7, 1973. On November 9, 1977, approximately 20 barrels were observed along the east fence line, south of the on-site road. These barrels were rusted out. A substance, apparently tar, had seeped from these barrels and "set up" a few feet downhill.

On May 15, 1974, a preliminary hydrogeologic evaluation was requested from the Illinois State Water Survey and the Illinois State Geological Survey. This was requested as a result of a permit application received by this Agency on

April 24, 1974.

On June 18, 1974, a reply from I.S.G.S. was received. This report stated this area was a large abandoned gravel pit, 40 feet deep, dug to approximately the water table. The gravel extended to bedrock, a depth of 75 feet. The gravel was highly permeable and the source of several large, industrial supplies.

The site is bordered on the west by the C & IM or N & W Railroad. The land on the west side of the railroad is as high or higher than the landfill on the east side.

The cover that has been applied to this fill has been apparently obtained from the site. This material is primarily a sandy gravel. This material erodes and settles and has been subject to wind erosion.

At the present time, most of the site is not properly final covered. Leachate is and has been flowing from the face of the fill to the low point of the site, located on the northwest adjacent to the railroad embankment.

Leachate flow has been observed on this site numerous times. The leachate flows to the northwest corner of the site and ponds. However, no large volume of leachate has been observed ponding on the site but appears to "disappear" as fast as it is produced.

On November 9, 1977, the leachate pond was approximately 15 yds. X 15 yds. X 6 inches. Approximately 11,000 gal. of water was estimated to be in this ponded area.

Numerous areas on the face of the fill were observed to be leaching. These separate flows joined together and entered the pond. It was estimated that this flow was approximately 3 gal./min. At this rate, approximately 4,300 gal./day would be produced. At this rate, assuming containment within the pond, a large volume of leachate would accumulate. This is not the case.

Assuming you have normal rainfall and evaporation from a large-surface area at a 3 gal./min. rate, one should expect the leachate to accumulate in the pond. Since accumulation in the pond does not take place to any degree over time, the only logical conclusion is that the leachate is migrating from the area at approximately the same rate as it is produced. This conclusion would be compatible with the preliminary geological report.

Estimated cost of properly closing and covering this site is \$157,000 (8 acres X 2 ft. cover and installation of 3 monitor wells). This figure assumes that a clay-type soil cover will

be brought to the site and that the completed area will be seeded.

An additional amount would be required to properly cover the old site (filled prior to 1965) located adjacent to and south of this site. Without proper cover on the old site, surface infiltration may occur there and migrate north under the present site contributing to the groundwater pollution threat.

Even with proper covering, grading, seeding, etc., one can probably expect this site to leach downward for a period of time.

RECOMMENDATIONS

It is recommended that an enforcement case be filed against the City of Pekin charging improper site closure (Rule 305 (c)). In addition, violation of Rule 313 may well have occurred. There is some question as to whether adequate proof can be offered to substantiate this charge.

It is further suggested that a monetary penalty in the amount of \$2,000 be assessed. The City has made no great effort to resolve the problem at hand, especially in light of the Appellate Court decision.

A monitoring program, consisting of monitor wells, needs to be established. This program should be approved by the Agency prior to installation.

A performance bond equal to the projected cost of properly closing and covering this site should be required.

GES:dt

cc: Land FOS Manager
Enforcement Programs
Central Region